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An unending variety of topics

Thursday, May 04, 2006

Medical bureaucrats must respect life and liberty, says court

Alex Taberrok writes about a wonderful decision out of the D.C. Circuit. The court basically held that the FDA is violating the Fifth Amendment (and I'd add, natural and common law) rights to life and liberty of terminally ill patients by preventing them from getting drugs for their purpose of saving their lives unless the FDA has a compelling interest in doing so that outweighs these rights. Amazingly enough, up until this court's decision one had a Fifth and Fourteenth Amendment right to terminate the life of a fetus (a right with which I agree) by getting an abortion (or taking an abortion pill) without the government placing an "undue burden" on these medical procedures, but no such right under United States law to try to save one's own life with relatively safe medication.

Here's the court's opinion. I find the court's argument quite compelling, as it's based on both liberty *and* life, rather than just pitting one against the other as in the abortion debate. Alas, despite the compelling argument this doctrine may have a tough time surviving our current legal positivist (statutory language can do no wrong, and neither can regulation...) Supreme Court, not to mention a political environment where most of the planet thinks that medicine should be centrally planned by state bureaucrats, the patients be damned.

Posted by Nick Szabo at 9:56 PM

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Nick Szabo

"A premier thinker about history, law and economics, and the lessons they have for security." -- Adam Shostack, Emergent Chaos

"Szabo comes out with these essays that leave me in awe." -- Brian Dunbar

"Reading material that is eclectic, challenging and endlessly fascinating." -- Sean McGrath, Propylon

"Like most blogs worth my attention, this blog is updated only infrequently. That is because the authors of blogs worth my attention only post when they have something to say that is true, relevant and not already known by their audience. Most of the human race does not have the skill to know when an idea has these three properties. The skill is particularly rare in the fields of politics and economics, which is why this blog is such a rare and valuable thing." -- Richard Hollerith

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